

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

|                     |   |                                    |
|---------------------|---|------------------------------------|
| Daniel McNeil, Jr., | ) |                                    |
|                     | ) |                                    |
| Plaintiff,          | ) |                                    |
|                     | ) |                                    |
| vs.                 | ) | Civil Action No.: 4:07-542-TLW-TER |
|                     | ) |                                    |
| Sgt. NFN August,    | ) |                                    |
|                     | ) |                                    |
| Defendant.          | ) |                                    |
| _____               | ) |                                    |

**ORDER**

Plaintiff, Daniel McNeil, Jr. (“plaintiff”), brought this civil action, *pro se*, pursuant to 42 U.S.C. § 1983 on February 26, 2007. (Doc. #1). The defendant filed a Motion for Summary Judgment on April 16, 2008. (Doc. #29). The plaintiff filed a Response in Opposition on May 20, 2008. (Doc. #33). The defendant then filed a Reply on June 2, 2008. (Doc. #34).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned. (Doc. #38). In the Report, the Magistrate Judge recommends that the District Court grant the defendant’s Motion for Summary Judgment. (Doc. #38). The plaintiff filed objections to the report. (Doc. #41). In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny

entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #38). Therefore, for the reasons articulated by the Magistrate Judge, defendant's Motion for Summary Judgment is **GRANTED**.

**IT IS SO ORDERED.**

s/Terry L. Wooten  
United States District Judge

December 11, 2008  
Florence, South Carolina